

STATE OF IDAHO)
)ss.
County of Ada)

I, WILLIAM H. THOMAS, being first duly sworn on oath, depose and say:

1. I am one of the attorneys for the Plaintiffs in this action and have personal knowledge of the facts herein.

2. On April 2, 2004, Plaintiffs' counsel was served with four separate sets of Requests for Admission containing a total of 563 separate requests for admission. A sample of the requests is attached hereto as Exhibit "A".

3. These requests require direct contact with 91 separate individuals who are either named plaintiffs or have filed consents to join this collective action. Since these requests were received, two paralegals have been working almost full time attempting to contact each of these individuals and obtain the information requested in order to serve responses by the May 5, 2004 deadline.

4. In many instances, it was necessary to call individuals multiple times before reaching them. In several instances, we have been unable to locate individuals because of telephone or address changes.

5. The defendant also on April 2, 2004, served 25 additional Interrogatories on Plaintiffs. While our staff had been working to compile the information necessary to adequately respond to this discovery, additional time is necessary.

6. From the beginning of April, Plaintiffs and Defendant have both been trying to schedule the depositions of some 78 people. This effort has occupied significant staff resources

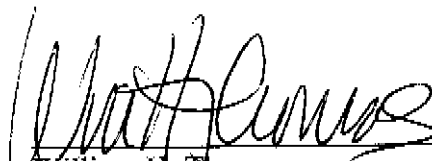
AFFIDAVIT OF WILLIAM H. THOMAS IN SUPPORT OF PLAINTIFFS' MOTION TO
EXTEND TIME TO RESPOND TO 563 REQUESTS FOR ADMISSION AND
INTERROGATORIES, P. 2

and has impeded the progress on responding to the written discovery.

7. Plaintiffs will be able to complete the written discovery by May 19, 2004.

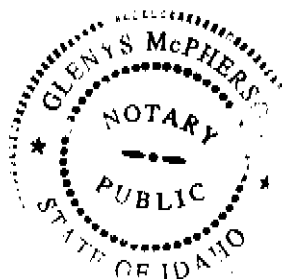
8. On April 30, 2004, I attempted to reach counsel for Defendant to request an extension of time to respond to this discovery. I was informed that counsel was out of town and would not return to the office until Monday, May 3, 2004. Following receipt of that information, I received a phone call from Mr. Dockstader to whom I explained the nature of Plaintiff's request. He informed me that he was unable to stipulate to an extension until May 19, 2004, without his client's consent. In addition, he advised me that it was likely that he would interpose an objection to this motion.

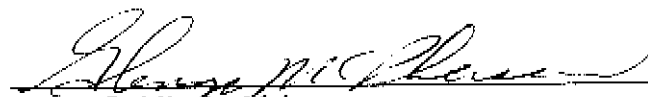
9. Plaintiffs have made no previous requests for extension of time.



William H. Thomas

Subscribed and sworn to before me this 30th day of April, 2004.





Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 4/7/06

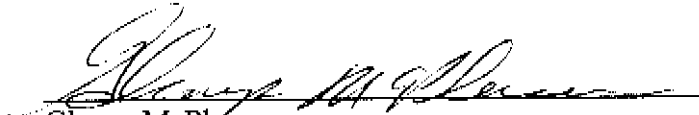
AFFIDAVIT OF WILLIAM H. THOMAS IN SUPPORT OF PLAINTIFFS' MOTION TO
EXTEND TIME TO RESPOND TO 563 REQUESTS FOR ADMISSION AND
INTERROGATORIES, P. 3

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of April, 2004, a true and correct copy of the foregoing instrument was served upon opposing counsel as indicated below:

Kim J. Dockstader
Gregory C. Tollefson
STOEL RIVES LLP
101 S. Capitol Blvd., Suite 1900
Boise, ID 83702-5958

☐ Via Hand Delivery
☒ Via Facsimile 389-9040
☐ Via U. S. Mail


Glenys McPherson

RECEIVED

APR 02 2004

DANIEL E. WILLIAMS

Kim J Dockstader, ISB No. 4207
Gregory C. Tollefson, ISB No. 5643
STOEL RIVES LLP
101 South Capitol Boulevard, Suite 1900
Boise, ID 83702-5958
Telephone: (208) 389-9000
Fax Number: (208) 389-9040
kjdockstader@stoel.com
gctollefson@stoel.com

Attorneys for Defendant Micron Electronics, Inc.

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
HINCKLEY, JACQUELINE T.
HLADUN, MARILYN J. CRAIG,
JEFFERY P. CLEVENGER, and
TIMOTHY C. KAUFMANN, individually
and on behalf of those similarly situated,

Plaintiffs,

v.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**DEFENDANT MICRON ELECTRONICS,
INC.'S THIRD SET OF REQUESTS FOR
ADMISSION TO PLAINTIFFS**

Defendant Micron Electronics, Inc. ("Micron Electronics"), by and through its counsel,
requests that Plaintiffs make the following admissions within thirty (30) days, pursuant to
Rule 36 of the Federal Rules of Civil Procedure.

EXHIBIT *A*

**DEFENDANT MICRON ELECTRONICS, INC.'S THIRD SET OF REQUESTS
FOR ADMISSION TO PLAINTIFFS - 1**

Boise-169443.1 0026493-00046

INSTRUCTIONS

If you object to any of the following Requests for Admission, please state the reasons for the objection. If you are unable to truthfully admit or deny any of the following Requests for Admission, please set forth in detail the reasons why you cannot truthfully admit or deny the matter. If you deny only part of any of the following Requests for Admission, please specify which part is admitted and qualify or deny the remainder.

DEFINITIONS

As used in these Requests for Admission, the following words and phrases shall have the following meanings:

1. As used herein, the terms "Plaintiff," "Claimant," "you," "your," and "yourself" are interchangeable and refer to the named Plaintiffs Kimberley Smith, Michael B. Hinckley, Jacqueline T. Hladun, Marilyn J. Craig, Jeffery P. Clevenger and Timothy C. Kaufmann, all persons who file consents to "opt-in" or join this lawsuit, and all agents, employees, counsel and all other person(s) acting or purporting to act on behalf of any of the foregoing persons.
2. "Micron Electronics" means the Defendant, Micron Electronics, Inc., and any of its subsidiaries or divisions, and its or their predecessors or successors.
3. "Inside sales representative" means any individual who, at any time between June 1, 1998 to May 31, 2001: (a) were inside sales representatives paid compensation based on hourly wages (plus commissions) while working in the PC business for Micron Electronics, Inc., MicronPC, Inc., Micron Commercial Computer Systems, Inc. or Micron Government Computer Systems, Inc.; and (b) performed off-the-clock work, or were subjected to an inaccurate calculation of overtime pay.

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 390: Admit that on June 27, 1999, Kevin Aubert was promoted to Account Executive, at which time he became an exempt employee of Micron Electronics.

REQUEST FOR ADMISSION NO. 391: Admit that from June 27, 1999 through August 11, 2000, Kevin Aubert was not employed with Micron Electronics as an inside sales representative.

REQUEST FOR ADMISSION NO. 392: Admit that John Caprai was employed with Micron Electronics as an Engineer.

REQUEST FOR ADMISSION NO. 393: Admit that John Caprai was not an inside sales representative during the course of his employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 394: Admit that Heather Elliott was employed with Micron Electronics as a Customer Service Representative.

REQUEST FOR ADMISSION NO. 395: Admit that Heather Elliott was not an inside sales representative during the course of her employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 396: Admit that Beverly J. Hillard was employed with Micron Electronics as a Customer Service Representative.

REQUEST FOR ADMISSION NO. 397: Admit that Beverly J. Hillard was not an inside sales representative during the course of her employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 398: Admit that Carren Mattson was employed with Micron Electronics as a Sales Assistant.

REQUEST FOR ADMISSION NO. 399: Admit that Carren Mattson was not an inside sales representative during the course of her employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 400: Admit that Carly D. Seader was employed with Micron Electronics as a Customer Service Representative.

REQUEST FOR ADMISSION NO. 401: Admit that Carly D. Seader was not an inside sales representative during the course of her employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 402: Admit that on May 9, 1999, Nanci Uli was promoted to Account Executive, at which time she became an exempt employee of Micron Electronics.

REQUEST FOR ADMISSION NO. 403: Admit that from May 9, 1999 through May 31, 2001, Nanci Uli was not employed with Micron Electronics as an inside sales representative.

REQUEST FOR ADMISSION NO. 404: Admit that Patrick H. Worthington was employed with Micron Electronics in Corporate Sales.

REQUEST FOR ADMISSION NO. 405: Admit that Patrick H. Worthington was not an inside sales representative during the course of his employment with Micron Electronics.

REQUEST FOR ADMISSION NO. 406: Admit that from its inception in November, 1998 through May 31, 2001, at least seventy-five percent of MicronPC, Inc.'s annual dollar volume of sales of goods was not for resale.

REQUEST FOR ADMISSION NO. 407: Admit that from its inception in November, 1998 through May 31, 2001, MicronPC, Inc. was recognized as being in retail sales in the computer industry.

REQUEST FOR ADMISSION NO. 408: Admit that from its inception in November, 1998 through May 31, 2001, at least seventy-five percent of Micron Commercial Computer Systems, Inc.'s annual dollar volume of sales of goods was not for resale.

REQUEST FOR ADMISSION NO. 409: Admit that from its inception in November, 1998 through May 31, 2001, Micron Commercial Computer Systems, Inc. was recognized as being in retail sales in the computer industry.

REQUEST FOR ADMISSION NO. 410: Admit that from its inception in November, 1998 through May 31, 2001, at least seventy-five percent of Micron Government Computer Systems, Inc.'s annual dollar volume of sales of goods was not for resale.

REQUEST FOR ADMISSION NO. 411: Admit that from its inception in November, 1998 through May 31, 2001, Micron Government Computer Systems, Inc. was recognized as being in retail sales in the computer industry.

REQUEST FOR ADMISSION NO. 412: Admit that from June 1, 1998 through May 31, 2001, at least seventy-five percent of Micron Electronics, Inc.'s annual dollar volume of sales of goods was not for resale.

REQUEST FOR ADMISSION NO. 413: Admit that from June 1, 1998 through May 31, 2001, Micron Electronics, Inc. was recognized as being in retail sales in the computer industry.

REQUEST FOR ADMISSION NO. 414: Admit that each current class member who was an inside sales representative paid compensation based on hourly wages plus commissions was employed by a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 415: Admit that each current class member was employed by a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 416: Admit that from its inception in November, 1998 through May 31, 2001, MicronPC, Inc. was a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 417: Admit that from its inception in November, 1998 through May 31, 2001, Micron Commercial Computer Systems, Inc. was a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 418: Admit that from its inception in November, 1998 through May 31, 2001, Micron Government Computer Systems, Inc. was a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 419: Admit that between June 1, 1998 and May 31, 2001, Micron Electronics, Inc. was a "retail or service establishment," as that term is used in 29 U.S.C. § 207.

REQUEST FOR ADMISSION NO. 420: Admit that between June 1, 1998 and May 31, 2001, each class member's regular rate of pay exceeded one and one-half times the applicable minimum wage for every hour worked in a workweek in which overtime hours were worked.

REQUEST FOR ADMISSION NO. 421: Admit that between June 1, 1998 and May 31, 2001, each class member (who was an inside sales representative paid compensation based on hourly wages plus commissions) had a regular rate of pay which exceeded one and one-

half times the applicable minimum wage for every hour worked in a workweek in which overtime hours were worked.

DATED this 2nd day of April, 2004.

STOEL RIVES LLP

By: 

Kim J Dockstad

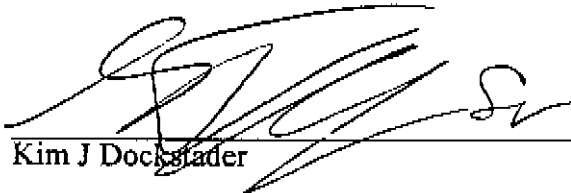
Attorneys for Defendant
Micron Electronics, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of April, 2004, I caused to be served a true copy of the foregoing **DEFENDANT MICRON ELECTRONICS, INC.'S THIRD SET OF REQUESTS FOR ADMISSION TO PLAINTIFFS** by the method indicated below, and addressed to each of the following:

William H. Thomas
Daniel E. Williams
Christopher F. Huntley
HUNTLEY PARK LLP
250 South 5th Street
P.O. Box 2188
Boise, Idaho 83701-2188

[]	U.S. Mail
[X]	Hand Delivery
[]	Overnight Delivery
[]	Facsimile



Kim J Dockstader